

**ASSEMBLY BILL**

**No. 2159**

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**Introduced by Assembly Member Anderson**

February 18, 2010

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An act to repeal Section 68130.5 of the Education Code, to add Article 5 (commencing with Section 275) to Chapter 3 of Part 1 of Division 2 of the Military and Veterans Code, and to repeal Section 1 of Chapter 814 of the Statutes of 2001, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2159, as introduced, Anderson. Postsecondary education.

(1) Existing law requires that a person, other than a nonimmigrant alien, as defined, who has attended high school in California for 3 or more years, who has graduated from a California high school or attained the equivalent thereof, who has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year, and who, if he or she is an alien without lawful immigration status, has filed an affidavit as specified, is exempted from paying nonresident tuition at the California Community Colleges and the California State University. The act enacting that exemption also made related legislative findings and declarations.

This bill would repeal that exemption and those legislative findings and declarations.

(2) Existing law establishes the segments of the public postsecondary education system in the state, including the University of California, administered by the Regents of the University of California, the California State University, administered by the Trustees of the California State University, and the California Community Colleges,

administered by the Board of Governors of the California Community Colleges.

Existing law provides certain benefits for qualifying members of the California National Guard.

This bill would require the University of California, the California State University, or the California Community Colleges, as applicable, to provide a specified waiver of tuition and fees charged to a qualified member, as defined. These provisions would apply to the University of California only to the extent the regents make them applicable by resolution.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 68130.5 of the Education Code is
- 2 repealed.
- 3 ~~68130.5.—Notwithstanding any other provision of law:~~
- 4 ~~(a) A student, other than a nonimmigrant alien within the~~
- 5 ~~meaning of paragraph (15) of subsection (a) of Section 1101 of~~
- 6 ~~Title 8 of the United States Code, who meets all of the following~~
- 7 ~~requirements shall be exempt from paying nonresident tuition at~~
- 8 ~~the California State University and the California Community~~
- 9 ~~Colleges:~~
- 10 ~~(1) High school attendance in California for three or more years.~~
- 11 ~~(2) Graduation from a California high school or attainment of~~
- 12 ~~the equivalent thereof.~~
- 13 ~~(3) Registration as an entering student at, or current enrollment~~
- 14 ~~at, an accredited institution of higher education in California not~~
- 15 ~~earlier than the fall semester or quarter of the 2001–02 academic~~
- 16 ~~year.~~
- 17 ~~(4) In the case of a person without lawful immigration status,~~
- 18 ~~the filing of an affidavit with the institution of higher education~~
- 19 ~~stating that the student has filed an application to legalize his or~~
- 20 ~~her immigration status, or will file an application as soon as he or~~
- 21 ~~she is eligible to do so.~~
- 22 ~~(b) A student exempt from nonresident tuition under this section~~
- 23 ~~may be reported by a community college district as a full-time~~
- 24 ~~equivalent student for apportionment purposes.~~

1 ~~(e) The Board of Governors of the California Community~~  
2 ~~Colleges and the Trustees of the California State University shall~~  
3 ~~prescribe rules and regulations for the implementation of this~~  
4 ~~section.~~

5 ~~(d) Student information obtained in the implementation of this~~  
6 ~~section is confidential.~~

7 SEC. 2. Article 5 (commencing with Section 275) is added to  
8 Chapter 3 of Part 1 of Division 2 of the Military and Veterans  
9 Code, to read:

10  
11 Article 5. California National Guard Education Assistance Act

12  
13 275. (a) Notwithstanding any other law, the University of  
14 California, the California State University, or the California  
15 Community Colleges, as applicable, shall provide a tuition and  
16 fee waiver to a qualified member to meet the full cost, as authorized  
17 by this section, of any mandatory systemwide tuition or fees,  
18 including enrollment fees, registration fees, differential fees, or  
19 incidental fees, charged to a qualified member.

20 (b) A qualified member shall receive tuition and fee waivers  
21 for up to 60 semester units, or the equivalent thereof, for every  
22 three years that he or she has committed to serve in the California  
23 National Guard.

24 (c) The total amount of tuition and fee waivers authorized by  
25 this section shall not exceed 120 semester units, or the equivalent  
26 thereof, per qualified member.

27 (d) The tuition and fee waivers authorized by this section shall  
28 only be available to a qualified member for a period of seven years  
29 following the date that the qualified member fulfills the service  
30 commitments necessary to receive the tuition and fee waivers.

31 (e) The tuition and fee waivers authorized by this section shall  
32 not be provided for any mandatory systemwide tuition and fees,  
33 including enrollment fees, registration fees, differential fees, or  
34 incidental fees, that are covered by a Cal Grant that has been  
35 awarded to the qualified member, or by a Board of Governors  
36 Enrollment Fee Waiver for which the qualified member is  
37 otherwise eligible to receive.

38 (f) A tuition and fee waiver, as authorized by this section, shall  
39 be provided only to a qualified member who made a timely  
40 application for all Cal Grant assistance for which the member may

1 qualify for the academic year in which a tuition and fee waiver is  
2 under consideration.

3 (g) For purposes of the section, “qualified member” means a  
4 person who:

5 (1) Has served or is currently serving in the California National  
6 Guard, and has maintained satisfactory service throughout the  
7 period that qualifies him or her for educational assistance under  
8 this section.

9 (2) Has committed to at least three years of service in the  
10 California National Guard.

11 (3) Is accepted for enrollment at a campus of the University of  
12 California, the California State University, or the California  
13 Community Colleges.

14 (h) A person who joined the California National Guard prior to  
15 January 1, 2011, shall be required to recommit to the California  
16 National Guard for at least three additional years, in order to  
17 receive the educational assistance under this section.

18 (i) A qualified member who is dismissed from a campus of the  
19 University of California, the California State University, or the  
20 California Community Colleges due to poor academic performance  
21 shall not be eligible to receive the educational assistance under  
22 this section in the future.

23 (j) A qualified member who receives educational assistance  
24 under this section and fails to fulfill his or her commitment to the  
25 California National Guard shall pay to the postsecondary institution  
26 an amount equal to the value of the tuition and fee waiver received  
27 under this section.

28 (k) The Military Department shall determine whether an  
29 individual meets the requirements of “qualified member” as set  
30 forth in subdivision (g).

31 (l) This section shall not apply to the University of California,  
32 except to the extent that the Regents of the University of California,  
33 by appropriate resolution, make this section applicable.

34 SEC. 3. Section 1 of Chapter 814 of the Statutes of 2001 is  
35 repealed.

36 ~~SECTION 1. (a) The Legislature hereby finds and declares~~  
37 ~~all of the following:~~

38 ~~(1) There are high school pupils who have attended elementary~~  
39 ~~and secondary schools in this state for most of their lives and who~~  
40 ~~are likely to remain, but are precluded from obtaining an affordable~~

1 college education because they are required to pay nonresident  
2 tuition rates.

3 (2) These pupils have already proven their academic eligibility  
4 and merit by being accepted into our state's colleges and  
5 universities.

6 (3) A fair tuition policy for all high school pupils in California  
7 ensures access to our state's colleges and universities, and thereby  
8 increases the state's collective productivity and economic growth.

9 (4) This act, as enacted during the 2001-02 Regular Session,  
10 allows all persons, including undocumented immigrant students  
11 who meet the requirements set forth in Section 68130.5 of the  
12 Education Code, to be exempt from nonresident tuition in  
13 California's colleges and universities.

14 (5) This act, as enacted during the 2001-02 Regular Session,  
15 does not confer postsecondary education benefits on the basis of  
16 residence within the meaning of Section 1623 of Title 8 of the  
17 United States Code.

18 (b) It is the intent of the Legislature that:

19 (1) A state court may award only prospective injunctive and  
20 declaratory relief to a party in any lawsuit interpreting Section  
21 68130.5 of the Education Code, as added by this act during the  
22 2001-02 Regular Session, or any lawsuit interpreting similar  
23 requirements adopted by the Regents of the University of California  
24 pursuant to Section 68134 of the Education Code.

25 (2) This act will have no impact on the ability of California's  
26 public colleges and universities to assess nonresident tuition on  
27 students who are not within the scope of this act.